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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,137	10/28/2003	Larry E. Hawker	555255012611	6439
89441	7590	07/06/2010		
Jones Day (RIM) - 2N				
North Point				
901 Lakeside Avenue				
Cleveland, OH 44114				
EXAMINER				
PAUL, DISLER				
ART UNIT		PAPER NUMBER		
2614				
NOTIFICATION DATE		DELIVERY MODE		
07/06/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/695,137

Applicant(s)

HAWKER ET AL.

Examiner

DISLER PAUL

Art Unit

2614

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-26; 29-34; 37-43; 45-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-26; 29-34; 37-43; 45-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

In regard to the applicant's argument as regard to claims 25-26; 29-34; 37-40 have been considered and are non-persuasive for the reason as discussed in the office action below.

1. Applicant's arguments filed on 11/04/09 and repeated on 5/21/2010 as in regard to "the safe volume profile providing a default volume setting selected to reduce risk of damage to a user's hearing if the mobile device is operated in close proximity to the user's ear while in the hands-free mode of operation" have *been fully considered and are non-persuasive*.

Kraft et al. disclose of such concept of "storing a predetermined volume profile at the mobile device associated with a hands-free mode of operation, the volume profile providing a default volume setting for a speaker is selected during a situation as in the phone is operated in close proximity to the user's ear while in the hands-free mode of operation" (Table-1 (10.1), par [0010; 0020, 0022, 0024, 0037]/volume setting for a hands-free mode operation may be selected by the user as desired when user wear headset at ear). Since the user with hands-free mode of operation may set the volume setting appropriately as desired with default status, it would have been obvious that by common sense the volume set by the user could have been a safe volume setting so that user's ears would be less likely being damaged.

Since, Kraft et al. disclose of having the phone being in hands-free mode is when the user wears the headset and also having handset mode with corresponding volume (Table-1(10.1), par [0020, 0022, 0024, 0037]/ the phone has a volume setting for a hands-free mode operation which may be selected by the user when user wear headset at ear at a selected user volume setting level and also having the handset mode of operation when hands-free mode is off, wherein the headset is away from the ear. and thus, it would have been obvious for one of the ordinary skill in the art to have such a situation wherein the user volume setting as either modes of operation to have the regular volume profile in handset being higher than the default setting of the volume profile of the hands-free so as to enable the user to hear the audio output signals easily since the device is further away from the user's ear.

However, in regard to the added claims 41-43 and 45-46, the applicant's argument that the prior art of record failed to disclose of the method comprising: initially limiting the volume, when the mobile device is manually switched to hands-free mode, to a preset initial level . This argument has been considered persuasive, thus a new office action is now mailed.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 25, 30-33, 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and Yoo (US 2004/0185919) and Cook (US 6,434,407 B1).

Re claim 25, Kraft et al. disclose of a method of processing a voice call at a mobile device, comprising: storing a predetermined volume profile at the mobile device associated with a hands-free mode of operation, the volume profile providing a default volume setting for a speaker is selected during a situation as in the phone is operated in close proximity to the user's ear while in the hands-free mode of operation (fig.1 (10); Table-1, par [0010; 0020, 0022, 0032-0033; 0037]/the volume default setting for a hands-free mode operation may be selected automatically as desired when a user wears headset at ear). Since the user with hands-free mode of operation may set the volume setting appropriately as desired with default status, it would have been obvious that by common sense the volume set by the user could have been a safe volume setting so that user's ears would be less likely being damaged.

Thus, Kraft et al. as modified disclosed that the safe default volume profile is inherently selected to reduce the risk of damage to a user's hearing if the mobile device is operated in close proximity to the ear (fig.1 (10); Table 1-2; par [0010; 0022, 0024]/ the device has a default volume setting according to the hands-free mode).

Kraft et al. further disclose of answering an incoming call with the mobile device in the handset mode of operation according to a regular volume profile (fig.1 (11); table 1 (10.2); par [0010; 0015-0016; 0026]/the user may manually answer incoming phone in a handset mode of operation with corresponding set of volumes when the hands-free mode is turned off, thus the handset mode condition is on).

However, Kraft et al. failed to disclose of the regular volume profile during the handset mode as being higher than the default setting of the volume profile. But, since Kraft et al. did disclose of adjusting the desired volume profile by the user in plurality of mode and that include in handset mode with appropriate volume and default volume setting in hands-free mode (Table-1; par [0010, 0015, 0022, 0032]/the user may manually adjust the volume setting as desired for the hands-free mode as detected by the headset or handset mode when the device is away form the user's ear). Thus, it would have been obvious for one of the ordinary skill in the art to have modified the device of Kraft to set the regular volume profile in handset away from the user's ear as being higher than the default setting of the volume profile of the hands-free so that the

user can hear the audio output signals easily since the device is further away from the user's ears.

However, Kraft et al. failed to disclose of switching the mobile device from the handset mode of operation to hands-free mode of operation while processing the incoming call. But, Yoo discloses of a system wherein such concept of switching the mobile device from the handset mode of operation to hands-free mode of operation while processing the incoming call (Abstract, par [0006; 0009]) so as to safely continue carrying conversations on the phones while driving. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the prior art by adding the concept of switching the mobile device from the handset mode of operation to hands-free mode of operation while processing the incoming call so as to safely continue carrying conversations on the phones while driving.

Although, the combined teaching of Kraft et al. and Yoo as a whole, disclose operating the mobile device in the hands-free mode of operation according to the safe volume profile so as to protect the hearing of the mobile device user (Table 1-2; par [0022]). However, they fail to disclose of the specific wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a hands-free mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker. But, Cook discloses of

a system wherein such limitation speakers for different mode of operation and specifically wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a hands-free mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker (fig.1 (105,125); col.1 line 53-60; col.2 line 19-23 & line 37-41; & line 50-57; col.3 line 34-40; col.1 line 10-14) so as to generate loud/audible signals without causing damage to the user's ear. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a hands-free mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker for purpose of generating loud/audible signals without causing damage to the user's ear.

Re claim 33, Kraft et al. disclose of the mobile device having a speaker, comprising : a memory for storing a volume profile associated with a hands-free mode of operation , the safe volume profile providing a default volume setting during a situation as in the speaker phone is operated in close proximity to the user's ear while in the hands-free mode of operation (fig.1 (10); fig.1 (10); Table-1, par [0010; 0020,0022, 0032;0037]/ the volume default setting for a hands-free mode operation may be selected automatically as desired when user wear headset at ear). Since the user with

hands-free mode of operation may set the volume setting appropriately as desired with default status, it would have been obvious that by common sense the volume set by the user could have been a safe volume setting so that user's ears would be less likely being damaged.

Thus, Kraft et al. as modified disclosed that the safe default volume profile is inherently selected to reduce the risk of damage to a user's hearing if the mobile device is operated in close proximity to the ear (fig.1 (10); Table 1-2; par [0010; 0022, 0024]/ the default volume setting according to the hands-free mode).

Kraft et al. further disclose of a transceiver for receiving and answering an incoming call (fig. 1(10.2); par [0010; 0008; 0015-0016]); a mode control system for selecting the handset mode of operation to process the incoming call, the handset mode of operation having an associated regular volume profile (fig.1 (11); table 1, par [00126;0015- 0016]/the user may answer incoming phone in a handset mode of operation when the hands-free mode is off).

However, Kraft et al. failed to disclose of the handset mode of operation having a volume profile being higher than the default setting of the volume profile. But, since Kraft did disclose of adjusting the desired volume profile by the user in handset and default volume setting in hands-free by the user (Table-1-2; par [0010, 0015, 0022, 0032]/ the user may manually adjust the volume setting as desired for the hands-free

mode as detected by the headset or handset mode when device is away from the user's ear). Thus, it would have been obvious for one of the ordinary skill in the art to have modified the device of Kraft et al. by adding the setting of the regular volume profile during the handset mode as being higher than the default setting of the volume profile so that the user can hear the audio output signals easily since the device is further away from the use's ear.

However, Kraft et al. failed to disclose of the mode control system further comprising means for switching the mobile device from the handset mode of operation to the hands-free mode of operation while processing the incoming call. But, Yoo discloses of a system wherein such concept of the mode control system further comprising means for switching the mobile device from the handset mode of operation to the hands-free mode of operation while processing the incoming call (Abstract, par [0006; 0009]) so as to safely continue carrying conversations on the phones while driving. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with the mode control system further comprising means for switching the mobile device from the handset mode of operation to the hands-free mode of operation while processing the incoming call so as to safely continue carrying conversations on the phones while driving.

The combined teaching of Kraft et al. and Yoo as a whole, further disclose of the means for operating the mobile device in the hands-free mode of operation according to

the safe volume profile so as to protect the hearing of the mobile device user (table 1-3; par [0020, 0026, 0032], the user setting volume with the hands-free mode).

The combined teaching of Kraft et al. and Yoo as a whole, fail to disclose of the specific wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a hands-free mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker. But, Cook discloses of a system wherein such limitation speakers for different mode of operation and specifically wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a hands-free mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker (fig.1 (105,125); col.1 line 53-60; col.2 line 19-23 & line 37-41; & line 50-57; col.3 line 34-40; col.1 line 10-14) for purpose of generating loud/audible signals without causing damage to the user's ear. Thus, taking the combined teaching of Karft et al. and Cole as a whole, it would have been obvious for one of the ordinary skill in the art to have modified the prior art by adding the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a hands-free mode of operation, the second speaker capable of generating a larger acoustic output signal

than the first speaker for purpose of generating loud/audible signals without causing damage to the user's ear.

Re claim 30, the method of claim 25, further comprising: switching the mobile device from the hands-free mode of operation back to the handset mode of operation while processing the incoming call (Yoo, Abstract, par [0006; 0009]); and operating the mobile device in the handset mode of operation according to the regular volume profile (Table 1-2; par [0010, 0015; 0037]/mode may be changed with user preselected modes)

Re claim 31, the method of Claim 25, further comprising: prior to answering the incoming call with the mobile device, enabling a notification on the mobile device indicating the receiving of the incoming call ([table 1], [0016]).

Re claims 38-39, which cite the similar limitation as in claims 30-31 have been analyzed and rejected accordingly.

Re claim 32, the method of claim 31, further comprising: determining whether to answer the incoming call in response to the notification and diverting calls when not answered (table 1 and par [0015-0016]), But, the combined teaching of Kraft and Yoo and Cook as a whole, fail to disclose of the specific determining whether to redirecting the voice call to a voicemail system associated with the mobile device if the voice call if not answered. However, official notice is taken that the limitation of redirecting the voice

call to a voicemail system associated with the mobile device if the voice call if not answered is commonly known in the art, thus it would have been obvious for one of the ordinary skill in the art to modify the combined teaching of Kraft and cook as whole, by incorporating the redirecting the voice call to a voicemail system associated with the mobile device if the voice call if not answered enabling the phone user to hear miscall messages over the mobile phone.

Similarly Re claim 40 has been analyzed and rejected with respect to claim 32.

4. Claims 29, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and Yoo and Cook (US 6,434,407 B1) and further in view of Schmidt (US 6,522,894 B1).

Re claim 29, the method of claim 25, But, the combined teaching of Kraft and Yoo and Cook as a whole, fail to further disclose of the comprising: defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the default volume setting to a volume level that exceeds the maximum safe volume when in the hands-free mode of operation. However, Schmidt discloses of a phone with mode of operation wherein the defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the default volume setting to a volume level that exceeds the maximum safe volume when in the hands-free mode of operation (co1.6 line 45-55). Thus, it would have been obvious for one of

the ordinary skill in the art to modify the combination by incorporating the defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the default volume setting to a volume level that exceeds the maximum safe volume when in the hands-free mode of operation for providing control volume with the operating mode.

Re claim 37, has been analyzed and rejected with respect to claim 29.

5. Claims 26, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and Yoo and Cook (US 6,434,407 B1) and further in view of Shimizu et al. (US 2002/0031236 A1").

Re claim 26, the method of claim 25 with switch between modes, However, the combined teaching of Kraft and Yoo and Cook as a whole, fail to disclose of the further comprising disabling adjustment of the volume level from the default volume setting of the safe volume profile for a predetermined time period after the user has switched the mobile device from handset mode of operation to the hands-free mode of operation. But, Shimizu et al. did disclose of the disabling of the adjustment of volume level from the safe default setting for a predetermined time period after the switching between modes by the user with rotation (page 7[0069]) for the purpose of preventing the user for switch the mode by mistake so that sound volume can be prevented from changing considerably. Thus, it would have been obvious for one of the ordinary skill in the art to

modify the combination by incorporating the disabling of the adjustment of volume level from the safe default setting for a predetermined time period after the switching between modes by the user for the purpose of preventing the user for switch the mode by mistake so that sound volume can be prevented from changing considerably.

Re claims 34, have been analyzed and rejected with respect to claim 26 above.

6. Claims 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1).

Re claim 41, Kraft et al. disclose of a method of processing a voice call by a mobile device that is configured to operate in handset mode in which the mobile device is placed against a user's ear and in hands-free mode in which the mobile device is held away from the user's ear (Table-1 (10); par [0010; 0022, 0032]/ the phone has different modes of operation and include handset or hands-free mode), the method comprising: initially limiting the volume, when the mobile device is switched to hands-free mode, to a preset initial level (table -1 (10); par [0010; 0015, 0020, 0022, 0035-0037] /the hands-free mode may be automatically switched together with other volume settings) and enabling the user to adjust the volume, while remaining in hands-free mode and after the volume has been initiated at the preset initial level, to another level than the preset initial level (Table-1 (7); par [0020,0022; 0032]/user may then adjust such volume

setting in combination with the mode settings during such desired modes so as to compensate for surrounding noise condition).

Although, Kraft et al. fail to disclose of the specific of such adjusting volume as raising the volume, but it would have been obvious for one of the ordinary skill in the art when adjusting the volume as explicitly disclosed by Kraft et al. to have such adjusted volume as being specifically raising the volume to a level higher than the preset initial level for obtaining the same benefit as in compensating in view of the surrounding noise condition.

Kraft et al. fail to disclose of such switching as being a manual switched to hands-free mode. But, it would have been obvious for one of the ordinary skills in the art to have modified the device of Kraft et al. to have such switching to the hands-free mode being carried out either automatically as in the device of Kraft et al. or even manually if desired since the same benefit such as adjusting the volume based on the particular modes of operation.

7 Claims 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and Zhurin et al. (US 2004/0218768 A1).

Re claim 42, the method of claim 41 wherein the enabling step includes: enabling the user to raise the volume, while remaining in hands-free mode and after the volume has remained at the preset initial level, to a level higher than the preset initial level ((Table-1 (7); par [0015, 0020, 0022; 0032]/user may then adjust such volume after the initial level as set by the user).

However, Kraft et al. fail to disclose of raising the volume, only after the volume has remained at a preset initial level for a finite time period.

However, Zhurin et al. disclose of a sound volume system wherein raising the volume, only after the volume has remained at a preset initial level for a finite time period (par [0020-0021; 0112; 0141-0143]/the volume is raised only after the volume remain at a pre-set initial level for a particular time segment during the pre-determined function of time) so as to smoothly change the volume level based on the presence of audio sources. Thus, it would have been obvious for one of the ordinary skills in the art to have modified the prior art by adding the concept of wherein raising the volume, only after the volume has remained at a preset initial level for a finite time period so as to smoothly change the volume level based on the presence of audio sources.

Re claim 43, the method of claim 42, although, the combined teaching of Kraft et al. and Zhurin et al. as a whole, disclose of the finite length of time (par [0021,0112]/the

finite time segment before adjusting). But, the combined teaching of Kraft et al. and Zhurin et al. as a whole, fail to disclose of the specific wherein the time segment as being a few seconds.

But, it would have been obvious for one of the ordinary skills in the art to have implemented any desired finite length of time as desired and including having such desired time segment as being a few seconds for obtaining the same benefit as to smoothly change the volume level based on the presence of audio sources.

8. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and Cook (US 6,434,407 B1).

RE claim 45, the method of claim 41 further comprising: emitting the voice call from a speaker when in handset mode and in hands-free mode (fig.1 (20); par [002]).

However, Kraft et al. fail to disclose of such emitting a voice from a first speaker when in handset mode and emitting the sound from a second speaker when in hands-free mode.

But, Cook disclose of a system wherein such emitting a voice from a first speaker when in handset mode and emitting the sound from a second speaker when in hands-

free mode (fig.1 (105,125); col.1 line 53-60; col.2 line 19-23 & line 37-41; & line 50-57; col.3 line 34-40; col.1 line 10-14) so as to generate loud/audible signals without causing damage to the user's ear. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with emitting a voice from a first speaker when in handset mode and emitting the sound from a second speaker when in hands-free mode for purpose of generating loud/audible signals without causing damage to the user's ear.

9. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and Yoo (US 2004/0185919).

RE claim 46, the method of claim 41 wherein the initially limiting step includes: initially limiting the volume, when the mobile device is switched to the different modes (par [0015]).

However, Kraft et al. fail to disclose of such switching as being from handset mode to hands-free mode in the middle of a conversation. But, Yoo discloses of a system wherein such concept of switching as being from handset mode to hands-free mode in the middle of a conversation (Abstract, par [0006; 0009]) so as to safely continue carrying conversations on the phones. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with switching as

being from handset mode to hands-free mode in the middle of a conversation so as to safely continue carrying conversations on the phones.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DISLER PAUL whose telephone number is (571)270-1187. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit: 2614

/Vivian Chin/

Supervisory Patent Examiner, Art Unit 2614